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NIXON & VANDERHYE, P.C.
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808

In re Application of
INOUE *et al*
Application No.: 10/574,505
PCT No.: PCT/US00/22674
Int. Filing Date: 24 August 2005
Priority Date: 31 August 2004
Attorney's Docket No.: 1035-626
For: DISPLAY ELEMENT AND DISPLAY
DEVICE

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DECISION ON PETITION

TO WITHDRAW HOLDING

OF ABANDONMENT

This decision is in response to applicants' "Request to Withdraw Holding of Abandonment Under 37 CFR 1.495(B)(2)" filed on 19 March 2007. No fee is required.

BACKGROUND

On 24 April 2002, applicants submitted an English translation of PCT/JP2005/15315 pursuant to 35 U.S.C. 154. As per Office practice, a national stage application was initiated and denoted as U.S. application No. 10/574,505. The thirty-month deadline for PCT/JP2005/15315 did not expire until 28 February 2007. Thus, no fees were due at this time.

On 27 February 2007, applicants filed papers to enter the national stage of PCT/JP2005/15315 which was accompanied by, *inter alia*, a Credit Card Payment form and an executed declaration. These papers were denoted as U.S. application No. 11/661,209.

On 06 March 2007, a Notice of Abandonment was mailed stating that the above-captioned application was abandoned because applicants failed to submit the Basic national fee within thirty-months.

On 19 March 2007, applicants filed the instant petition to withdraw the holding of abandonment which was accompanied by, *inter alia*, a stamped postcard receipt for the 27 February 2007 documents.

On 26 April 2007, applicants submitted a complete copy of the documents filed 27 February 2007 along with a postcard receipt for those documents as requested.

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DISCUSSION

There are two issues to discuss with this petition: (1) Duplicate national stage applications of PCT/JP2005/15315 were made, and (2) the papers filed 27 February 2007 are missing.

Duplicate National Stage Applications

A review of USPTO and financial records indicate that the papers filed 27 February 2007 were denoted as U.S. application No. 11/661,209. However, the national stage application of PCT/JP2005/15315 was already denoted as U.S. application No. 10/574,505 due to the submission of the English translation on 03 April 2006.

As is evident from the above recited facts, two sets of papers to enter the national stage were submitted for international application PCT/JP2005/15315. The end result for an international application designating the United States of America is a single U.S. national stage application.

Both applications will be merged into one national stage application for PCT/JP2005/15315. Applicants are advised that U.S. application No. 11/661,209 is no longer a valid U.S. National stage application.

Applicants must use only U.S. application No. 10/574,505 for all correspondence to the national stage application of PCT/JP2005/15315.

Papers to Enter National Stage of PCT/JP2005/15315 Missing

A review of office records shows that the national stage papers filed 27 February 2007 and (apparently) placed in U.S. application No. 11/661,209 could not be located.

MPEP § 503 lists procedures to ensure receipt of any paper filed in the USPTO. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

In this case, applicants have provided a copy of the date-stamped postcard receipt for documents submitted 27 February 2007. The postcard receipt records the papers submitted. Applicants have provided a copy of these papers. The postcard receipt is stamped "OIFE FEB 27 2007" across its face. The international application number, docket number and name of the applicant are all listed on the postcard receipt.

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Accordingly, applicants have provided *prima facie* evidence that the national stage papers of PCT/JP2005/15315 were received by the USPTO on 27 February 2007. The national stage fees paid in U.S. application No. 11/661,209 were processed and have been transferred to the subject application.

DECISION

For the reasons discussed above, applicants' petition to withdraw the holding of abandonment is **GRANTED**.

The Form PCT/DO/EO/909 mailed 06 March 2007 is hereby **VACATED**.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.



James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302